

HOUSE STANDING COMMITTEE ON NATURAL RESOURCES, GREAT LAKES, LAND USE, AND ENVIRONMENT

Thursday, February 9, 2006

9:00 a.m.

Room 519 House Office Building

Representative Palsrok, Chair, called the meeting to order.

MEMBERS PRESENT: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan.

Representative Gillard moved to excuse absent members.

Representative LaJoy supported the motion.

There being no objection, the motion prevailed by unanimous consent.

MEMBERS ABSENT/EXCUSED: Representative Palmer.

The Chair laid SB 850, SB 851, SB 852, SB 854, SB 857 and SB 355 before the committee.

SB 850	Birkholz	Water; conservation; regulation of water withdrawals; provide for.
SB 851	Patterson	Water; conservation; groundwater conservation advisory council; make recommendations on the development of a water withdrawal assessment tool.
SB 852	Van Woerkom	Water; conservation; water withdrawal registration and reporting requirements; modify.
SB 854	Basham	Natural resources; inland lakes; permit required for water withdrawals; establish procedure for when a permit is required that may affect an inland lake or a wetland.
SB 857	Brater	Water; conservation; public water supply systems; consider impacts on natural resources.
SB 355	Hardiman	Water; quality; safe drinking water act; make subject to clean corporate citizen program.

Senator Birkholz testified in support of the bill package.

Representative Pearce moved to adopt substitute (H-3) to SB 850.

Representative Gillard supported the motion.

The motion prevailed by a vote of 13-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative LaJoy moved to adopt substitute (H-1) to SB 851.

Representative Gillard supported the motion.

The motion prevailed by a vote of 13-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Meyer moved to adopt substitute (H-2) to SB 852.

Representative Gillard supported the motion.

The motion prevailed by a vote of 13-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Pearce moved to adopt substitute (H-2) to SB 854.

Representative Gillard supported the motion.

The motion prevailed by a vote of 13-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Byrnes moved to adopt substitute (H-2) to SB 857.

Representative Moore supported the motion.

The motion prevailed by a vote of 13-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Gillard moved to adopt substitute (H-1) to SB 355.

Representative Elsenheimer supported the motion.

The motion prevailed by a vote of 13-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

The following people submitted cards in support of SB 850, SB 851, SB 852, SB 854 and SB 857:

Frank Ruswick, representing the Michigan Department of Environmental Quality,
Kelly Bartlett, representing Senator Hardiman's Office,
Donna Stine, representing the Michigan United Conservation Clubs,
Kelly Dardzinski, representing PIRGIM,
Molly Flanigan, representing the National Wildlife Federation,
Rich Bowman, representing the Michigan Council of Trout Unlimited,
William Maier, representing Lansing Board of Water and Light,
Rob Anderson, representing Michigan Farm Bureau,
Becky Beauragard, representing the Michigan League of Conservation Voters,
Mike Johnston, representing the Michigan Manufactures Association,
Andy Such, representing the Michigan Bottled Water Council and the Michigan Chemistry Council,
Doug Roberts, representing the Michigan Chamber of Commerce,
Tom Hickson, representing the Michigan Association of Counties,
Bill Lobenherz, representing the Michigan Soft Drink Association,
Mike Frederick, representing the Concrete Paving Association,
Joe Fivas, representing the Michigan Municipal League,

Tom Frazier, representing the Michigan Townships Association,
James Clift, representing the Michigan Environmental Council.

Cyndi Roper, representing Clean Water Action, submitted a card in opposition to SB 850, SB 851, SB 852, SB 854 and SB 857, but did not wish to speak.

Representative Gillard offered the following amendment to SB 850 (H-3):

1. Amend page 11, following line 10, by inserting:

“SEC 32703A (1) IF THE PROHIBITION IN SECTION 32703 IS DETERMINED TO BE INVALID, THE WATERS OF THE STATE SHALL NOT BE DIVERTED UNLESS AUTHORIZED BY LAW.

(2) WHEN CONSIDERING WHETHER TO GRANT LEGISLATIVE APPROVAL FOR A DIVERSION, THE LEGISLATURE SHALL CONSIDER SECTION 51 OF ARTICLE IV OF THE STATE CONSTITUTION OF 1963 AND WHETHER THE PROJECT SERVES A PUBLIC PURPOSE, WHETHER THE PROJECT WILL RESULT IN NO MATERIAL HARM TO THE WATERS OF THE STATE, THE PUBLIC TRUST, OR RELATED PURPOSES, AND WHETHER THE PROJECT WOULD RESULT IN ANY IMPROVEMENT TO THE WATERS OF THE STATE OR THE WATER DEPENDENT NATURAL RESOURCES OF THE STATE.”.

Representative LaJoy moved to adopt the amendment to SB 850 (H-3).

Representative Pearce supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Palsrok offered the following amendments to SB 850 (H-3):

1. Amend page 23, line 4, after “**333.25211,**” by striking out the balance of the line through “**LAW,**” on line 6.

2. Amend page 23, line 7, after “**WITHDRAW.**” by inserting “**THIS SECTION IS NOT INTENDED TO DIMINISH OR CREATE ANY EXISTING AUTHORITY OF MUNICIPALITIES TO REQUIRE PERSONS TO CONNECT TO MUNICIPAL WATER SUPPLY SYSTEMS AS AUTHORIZED BY LAW.**”

Representative Pavlov moved to adopt the amendments to SB 850 (H-3).

Representative Gillard supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Palsrok offered the following amendments to SB 850 (H-3):

1. Amend page 6, following line 11, by inserting:

"(I) "ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES" MEANS THOSE MEASURES, METHODS, TECHNOLOGIES, OR PRACTICES FOR EFFICIENT WATER USE AND FOR REDUCTION OF WATER LOSS AND WASTE OR FOR REDUCING A WITHDRAWAL, CONSUMPTIVE USE, OR DIVERSION THAT MEET ALL OF THE FOLLOWING:

(i) ARE ENVIRONMENTALLY SOUND.

(ii) REFLECT BEST PRACTICES APPLICABLE TO THE WATER USE SECTOR.

(iii) ARE TECHNICALLY FEASIBLE AND AVAILABLE.

(iv) ARE ECONOMICALLY FEASIBLE AND COST-EFFECTIVE BASED ON AN ANALYSIS THAT CONSIDERS DIRECT AND AVOIDED ECONOMIC AND ENVIRONMENTAL COSTS.

(v) CONSIDER THE PARTICULAR FACILITIES AND PROCESSES INVOLVED, TAKING INTO ACCOUNT THE ENVIRONMENTAL IMPACT, AGE OF EQUIPMENT AND FACILITIES INVOLVED, THE PROCESS EMPLOYED, ENERGY IMPACTS, AND OTHER APPROPRIATE FACTORS." and relettering the remaining subdivisions.

2. Amend page 19, line 4, after "**PRACTICES**" by inserting "**OR ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES**".

Representative Ward moved to adopt the amendments to SB 850 (H-3).

Representative Gillard supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Palsrok offered the following amendments to SB 850 (H-3):

1. Amend page 5, line 14, after “**OR**” by striking out “**PRODUCE**” and inserting “**AGRICULTURAL PRODUCTS**”.

2. Amend page 5, line 15, after “**OR**” by striking out “**PRODUCE**” and inserting “**AGRICULTURAL PRODUCTS**”.

Representative Byrnes moved to adopt the amendments to SB 850 (H-3).

Representative Pavlov supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Moore moved to report out SB 850 as substitute (H-4) with recommendation.

Representative Gillard supported the motion.

The motion prevailed by a vote of 13-0-1.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: Representative Miller.

SB 850 (H-4) reported out with recommendation.

Representative Meyer moved to report out SB 851 as substitute (H-1) with recommendation.

Representative Byrnes supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

SB 851 (H-1) reported out with recommendation.

Representative Palsrok offered the following amendment to SB 852 (H-2):

1. Amend page 6, line 1, by striking out all of section 32708A and inserting:

“SEC. 32708A. (1) WITHIN 12 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, EACH WATER USER’S SECTOR SHALL BEGIN DESIGNING GUIDELINES FOR GENERALLY ACCEPTED WATER MANAGEMENT PRACTICES OR ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES WITHIN THAT SECTOR. WITHIN 24 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL REVIEW AND REPORT TO THE APPROPRIATE STANDING COMMITTEES OF THE LEGISLATURE ON WHETHER OR NOT THERE ARE REASONABLY DETAILED CRITERIA FOR ASSISTING A FACILITY IN DETERMINING WHETHER WATER IS BEING USED IN AN EFFICIENT MANNER. SUCH GUIDELINES MAY BE ADOPTED BY AN ESTABLISHED STATEWIDE PROFESSIONAL OR TRADE ASSOCIATION REPRESENTING THAT SECTOR.

(2) COMPLIANCE WITH GENERALLY ACCEPTED WATER MANAGEMENT PRACTICES OR ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES DOES NOT AUTHORIZE A WATER WITHDRAW THAT IS OTHERWISE PROHIBITED BY LAW.”

Representative Pearce moved to adopt the amendment to SB 852 (H-2).

Representative Byrnes supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Moore moved to report out SB 852 as substitute (H-3) with recommendation.

Representative Miller supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

SB 852 (H-3) reported out with recommendation.

Representative Pearce moved to report out SB 854 as substitute (H-2) with recommendation.

Representative Miller supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

SB 854 (H-2) reported out with recommendation.

Representative LaJoy moved to report out SB 857 as substitute (H-2) with recommendation.

Representative Miller supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

SB 857 (H-2) reported out with recommendation.

Representative Gillard moved to reconsider the vote by which SB 857 (H-2) was favorably reported.

Representative Pavlov supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, Palmer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Gillard offered the following amendments to SB 857 (H-2):

1. Amend page 4, following line 24 by inserting:

“Sec. 17. (1) A person engaged in producing bottled drinking water shall utilize a water source meeting the requirements of this **SECTION AND THE REQUIREMENTS OTHERWISE PROVIDED IN THIS** act. Bottling or packaging facilities and their operation shall remain under the supervision of the Michigan department of agriculture as provided for in the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, as amended, being sections 289.701 to 289.727 of the Michigan Compiled Laws **FOOD LAW OF 2000, 2000 PA 92, MCL 289.1101 TO 289.8111**, and regulation no. 549, being sections R285.549.1 through R285.549.29 of the Michigan administrative code, and other pertinent rules and laws.

(2) A person producing bottled drinking water from an out-of-state source shall submit proof to the director that the source and bottling facilities were approved by the agency having jurisdiction. The director may withhold approval of the bottled water if the other agency's inspection, surveillance, and approval procedures and techniques are determined to be inadequate.

(3) A PERSON WHO PROPOSES TO ENGAGE IN PRODUCING BOTTLED DRINKING WATER FROM A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL OF MORE THAN 250,000 GALLONS OF WATER PER DAY SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT THAT ALL OF THE FOLLOWING CONDITIONS WILL BE MET:

(A) THE PROPOSED USE IS NOT LIKELY TO HAVE AN ADVERSE RESOURCE IMPACT.

(B) THE PROPOSED USE IS REASONABLE UNDER COMMON LAW PRINCIPLES OF WATER LAW IN MICHIGAN.

(C) THE WITHDRAWAL WILL BE CONDUCTED IN SUCH A MANNER AS TO PROTECT RIPARIAN RIGHTS AS DEFINED BY MICHIGAN COMMON LAW.

(D) THE PERSON WILL UNDERTAKE ACTIVITIES, IF NEEDED, TO ADDRESS HYDROLOGIC IMPACTS COMMENSURATE WITH THE NATURE AND EXTENT OF THE WITHDRAWAL. THESE ACTIVITIES MAY INCLUDE THOSE RELATED TO THE STREAM FLOW REGIME, WATER QUALITY, AND AQUIFER PROTECTION.

(4) BEFORE PROPOSING ACTIVITIES UNDER SUBSECTION (3)(D), THE PERSON PROPOSING TO ENGAGE IN PRODUCING BOTTLED DRINKING WATER SHALL CONSULT WITH LOCAL GOVERNMENT OFFICIALS AND INTERESTED COMMUNITY MEMBERS.

(5) BEFORE MAKING THE DETERMINATION UNDER SUBSECTION (3), THE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT.

(6) IF THE PERSON PROPOSING TO ENGAGE IN PRODUCING BOTTLED DRINKING WATER UNDER SUBSECTION (3) DOES NOT HAVE A PERMIT UNDER SECTION 4, THE PERSON SHALL REQUEST A DETERMINATION UNDER SUBSECTION (3) WHEN THAT PERSON APPLIES FOR A PERMIT UNDER SECTION 4. IF THE PERSON PROPOSING TO ENGAGE IN PRODUCING BOTTLED DRINKING WATER HAS PREVIOUSLY RECEIVED A PERMIT UNDER SECTION 4, THE PERSON SHALL REQUEST A DETERMINATION UNDER SUBSECTION (3) PRIOR TO BEGINNING THE OPERATIONS.

(7) A PERSON SEEKING A DEPARTMENTAL DETERMINATION

UNDER SUBSECTION (3) SHALL SUBMIT AN APPLICATION FEE OF \$5,000.00 TO THE DEPARTMENT. THE DEPARTMENT SHALL TRANSMIT APPLICATION FEES RECEIVED UNDER THIS SECTION TO THE STATE TREASURER TO BE CREDITED TO THE WATER USE PROTECTION FUND CREATED IN SECTION 32714.

(8) THIS SECTION SHALL NOT BE CONSTRUED AS AFFECTING, INTENDING TO AFFECT, OR IN ANY WAY ALTERING OR INTERFERING WITH COMMON LAW WATER RIGHTS OR THE APPLICABILITY OF OTHER LAWS PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES OR THE ENVIRONMENT.

(9) AS USED IN THIS SECTION, "ADVERSE RESOURCE IMPACT" AND "NEW OR INCREASED LARGE QUANTITY WITHDRAWAL" MEAN THOSE TERMS AS THEY ARE DEFINED IN SECTION 32701 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.32701."

2. Amend page 5, line 1, by striking out all of subdivision (a) and relettering the remaining subdivisions.

Representative Meyer moved to adopt the amendments to SB 857 (H-2).

Representative Byrnes supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

Representative Meyer moved to report out SB 857 as substitute (H-3) with recommendation.

Representative Gillard supported the motion.

The motion prevailed by a vote of 14-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Palsrok, Pavlov, Meyer, LaJoy, Ward, Elsenheimer, Moore, Pearce, Gillard, Miller, Byrnes, Kathleen Law, Bennett and Donigan,

Nays: None,

Pass: None.

SB 857 (H-3) reported out with recommendation.

The committee did not take further action on SB 355.

With no further business to come before the committee, the Chair adjourned the meeting, the time being 10:30 a.m.

Representative Palsrok, Chair

Date Approved and Signed

Ben Cook
Committee Clerk
February 9, 2006
1 hour 30 minutes